MEMORANDUM

To: Members of the United States Senate &
United States House of Representatives

From: Toby Rittner, President & CEO
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Re: Disaster-area Recovery Bonds

In the aftermath of severe weather events and natural disasters, communities around the country often find themselves in dire need of federal assistance to enable recovery and rebuild essential infrastructure. While the federal aid offered through the Stafford Act offers a much needed source of funds for communities affected by disasters, those funds are rarely available in the immediate onset of a disaster, and are often insufficient for comprehensive recovery efforts. American communities are in need of a permanent financing tool that they can access immediately after disaster strikes, and that can leverage private investment for longer-term redevelopment of essential infrastructure.

After the devastation of Hurricane Katrina in 2005, Congress responded with the Gulf Opportunity Zone Act of 2005 (the "GO Zone Act") in order to provide Alabama, Louisiana, and Mississippi federal assistance to aid such states in recovery and promote economic development. Given the massive destruction caused by recent hurricanes, wildfires, tornadoes, and other extreme weather phenomena, legislation is needed from Congress for the benefit of the states and territories to support economic recovery and redevelopment. Using the GO Zone Act as a guide, legislation should be enacted as soon as possible and provide the following:

- Create a permanent category of tax-exempt private activity bonds, separate from federal volume cap restrictions, which could be issued by the affected states and territories in the event of a natural disaster. The bonds, to be tentatively known as "Disaster-area Recovery Bonds," would become available to the affected areas upon the declaration of a state of emergency by the President. We recommend a maximum federal allocation of $20 billion.
- Authorize the issuance of Disaster-area Recovery Bonds to finance in the disaster reconstruction zone ("Reconstruction Zone") (i) the acquisition, construction, reconstruction or renovation of non-residential real property (land, buildings, and fixtures – no equipment); (ii) the construction and rehabilitation of multi-family rental property for low and moderate income individuals, and (iii) the repair or reconstruction of damaged public utilities facilities and transportation infrastructure.
- Disaster-area Recovery Bonds would only be issued for the aforementioned purposes in the affected states if approved by the respective governors of such states or any duly designated officer.
    i. As with the GO Zone Act, bond proceeds could not be used to provide funding for country clubs, casinos, hot tub facilities, suntan facilities, liquor stores, massage parlors, golf courses, and race tracks. In addition, such proceeds could not be used to finance movable fixtures and equipment, subject to a limited exception as described at the end of this memorandum.

ii. As with the GO Zone Act, the amount of Disaster-area Recovery Bonds issued with respect to each state also could not exceed a certain dollar amount for that state. The cap for each state could be determined by a formula based on the portion of a state's population located in the Reconstruction Zone.

- As with bonds issued under the GO Zone Act, provide that interest on Disaster-area Recovery Bonds (and bonds issued to current refund such bonds) is not an item of tax preference for purposes of the federal alternative minimum tax.
- In order to increase the demand for Disaster-area Recovery Bonds, provide that financial institution purchasers of such bonds may deduct the interest cost of carrying an amount of such bonds not exceeding 2% of the purchaser's assets.

Measures in addition to those in the GO Zone Act or otherwise identified above should be considered to assure that future disasters, both natural and man-made, do not undermine the advance of improving state and local government budgets.

- Flexibility for tax-exempt working capital financings

  Permit state and local governments in the Reconstruction Zone to issue tax-exempt obligations on a short-term or long-term basis (e.g., up to thirty years) for governmental working capital requirements, without regard to the deficit sizing limits imposed under current law, in order to provide access to funds for crucial operating cash flow and to replenish "rainy day" reserves.

  Permit the eligible costs of nonresidential projects to include working capital in an amount up to 5% of the cost of the project, to assist businesses in replacing lost inventory and other working capital items.

  Permit the eligible costs of nonresidential projects to include the cost of acquiring or rehabilitating moveable equipment and fixtures in an amount up to 25% of the cost of the project, provided the equipment was used in the Reconstruction Zone by the beneficiary of the financing prior to the disaster or replaces such equipment.

- Debt Service relief

  Permit state and local governments in the Reconstruction Zone to extend repayment schedules for tax-exempt debt, without regard to the safe harbor provisions of current law that generally require the weighted average maturity of governmental tax-exempt bond borrowing to no exceed 120% of the useful lives of the financed facilities.

Given the devastation caused by recent natural disasters, as well as the likelihood that similarly destructive events occur in the future, affected states and communities need all available resources at their disposal to foster recovery and redevelopment. Federal legislation can play a vital role in that rebuilding effort, just as it has done in the past for Alabama, Louisiana, and Mississippi after Hurricane Katrina.

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